
SENATE BILL No. 395

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-2.1-22; IC 8-2.1-24-15.

Synopsis: Transportation carriers of household goods. Provides that the department of state revenue may not issue: (1) a certificate to transport household goods by motor vehicle on a public highway for compensation; (2) a permit allowing a contract carrier authority to operate motor vehicles on a public highway transporting household goods in interstate commerce; or (3) an acknowledgment to operate a motor vehicle in the intrastate transportation of household goods for compensation; to an individual who is not an Indiana resident or a corporation that is not a domestic corporation. Provides for the invalidation of a certificate or a permit already in existence.

Effective: Upon passage; July 1, 2005.

Broden

January 11, 2005, read first time and referred to Committee on Commerce and Transportation.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 395

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-2.1-22-12.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12.5. (a) Except as
3 provided in this chapter, a person may not operate a motor vehicle upon
4 an Indiana public highway to transport household goods for
5 compensation until the person has obtained a certificate from the
6 department.

7 (b) The department may issue a certificate under this section only
8 after conducting a public hearing and considering transportation
9 services provided by other carriers of household goods by motor
10 vehicle, railroad, or other means, that operate in the proposed territory
11 of the person that is applying for a certificate.

12 (c) **The department may not issue a certificate to an applicant:**

13 **(1) who is an individual who does not reside in Indiana; or**

14 **(2) that is not a domestic corporation (as defined in**
15 **IC 23-1-20-5).**

16 (d) **After December 31, 2005, a certificate issued under this**
17 **section for:**



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1 **(1) an individual who does not reside in Indiana; or**
 2 **(2) a corporation that is not a domestic corporation (as**
 3 **defined in IC 23-1-20-5);**
 4 **before July 1, 2005, is not valid.**

5 SECTION 2. IC 8-2.1-22-13 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) Upon the filing
 7 of an application for a certificate, the department shall, within a
 8 reasonable time, fix a time and place for public hearing in the city of
 9 Indianapolis, unless otherwise ordered by the department. A copy of
 10 the notice of hearing shall be mailed to the applicant at the address set
 11 out in the application at least ten (10) days before the hearing. ~~Any~~ **A**
 12 person interested in the proceedings may appear in person or by
 13 attorney and offer evidence in support of or in opposition to the
 14 application and with or without the filing of formal pleadings.

15 (b) The applicant has, at all times, the burden of proving, by a
 16 preponderance of the evidence, that public convenience and necessity
 17 **requires require** the proposed operation, and that the proposed
 18 operation will not unreasonably impair the public service of any
 19 authorized common carrier, or common carriers by motor vehicle or by
 20 railroad, ~~then~~ adequately serving the same territory.

21 (c) If the department finds from the evidence and from any
 22 additional investigation that the department causes to be made that
 23 public convenience and necessity exist for the service proposed, or any
 24 part of the service, the application shall be granted, subject to terms,
 25 restrictions, and limitations as the department may determine;
 26 otherwise, the application shall be denied.

27 (d) In determining whether a certificate shall be granted, the
 28 department may, among other things, consider the following:

- 29 (1) The financial ability of the applicant to furnish adequate
 30 service.
 31 (2) Whether other transportation service then in existence is
 32 adequate.
 33 (3) The effect upon other transportation service, and, particularly,
 34 whether the granting of the application will or may seriously
 35 impair that service.
 36 (4) The volume of other traffic over the route proposed by the
 37 applicant.
 38 (5) The effect and burden upon the highways and the bridges on
 39 the highways, and the use of the highways and bridges by the
 40 public.
 41 (6) Whether the operations will threaten the safety of the public
 42 or be detrimental to the public welfare.

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(7) The residence or state of incorporation of the applicant as provided for the application criteria under section 12.5(c) of this chapter.

SECTION 3. IC 8-2.1-22-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. **(a)** A person may not operate motor vehicles as a contract carrier over the public highways for the transportation of persons or household goods for compensation without first having obtained from the department a contract carrier permit.

(b) The department may not issue a permit to operate motor vehicles as a contract carrier over the public highways for the transportation of household goods for compensation to an applicant:

- (1) who is an individual who does not reside in Indiana; or**
- (2) that is not a domestic corporation (as defined in IC 23-1-20-5).**

(c) After December 31, 2005, a permit issued before July 1, 2005, to operate motor vehicles as a contract carrier over the public highways for the transportation of household goods for compensation under section 17(c) of this chapter for:

- (1) an individual who does not reside in Indiana; or**
- (2) a corporation that is not a domestic corporation (as defined in IC 23-1-20-5);**

is not valid.

SECTION 4. IC 8-2.1-24-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. **(a)** A motor carrier may not operate a motor vehicle in the transportation of property ~~upon~~ **on** a public highway in intrastate commerce until the motor carrier has:

- (1) submitted forms approved by the department to be a properly certified motor carrier; and**
- (2) been issued an acknowledgment by the department.**

An acknowledgment issued under subdivision (2) remains in effect until December 31 of the year in which the acknowledgment is issued.

(b) The department may not issue an acknowledgment to:

- (1) an individual who does not reside in Indiana; or**
- (2) a corporation that is not a domestic corporation (as defined in IC 23-1-20-5);**

for the purpose of transporting household goods on a public highway in intrastate commerce.

SECTION 5. [EFFECTIVE UPON PASSAGE] **(a)** Notwithstanding IC 8-2.1-24-15(a), as amended by this act, an acknowledgment issued by the department of state revenue before

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1 **July 1, 2005, to permit the operation of a motor vehicle in the**
2 **transportation of household goods on a public highway in**
3 **intrastate commerce remains valid until January 1, 2006.**
4 **(b) This SECTION expires January 2, 2006.**
5 **SECTION 6. An emergency is declared for this act.**

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